

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

MONICA ANN DOERNER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:20-cv-902-JPH-TAB
	)	
KILOLO KIJAKAZI, Acting Commissioner	)	
of the Social Security Administration, <sup>1</sup>	)	
	)	
Defendant.	)	

**ORDER GRANTING ATTORNEY FEES**

On June 22, 2021, Plaintiff's counsel moved for attorney fees of \$20,844.25, representing 25 percent of Plaintiff's award of past-due benefits, under 42 U.S.C. § 406(b)(1) and for an instruction for counsel to refund Plaintiff a prior award of \$6,063.25 made under the Equal Access to Justice Act ("EAJA"). Dkt. 24; *see Gisbrecht v. Barnhart*, 535 U.S. 789, 800 (2002) (finding "contingent-fee contracts that produce fees no higher than the 25 percent ceiling" to be "the most common fee arrangement between attorneys and Social Security claimants"). Defendant does not oppose this request, dkt. 25, and Plaintiff has waived any objection to this motion, dkt. 26.

For the reasons in the motion and after independently reviewing the contingency fee arrangement, dkt. 24-3, for reasonableness, the Court **GRANTS** the motion, dkt. [24]; *Gisbrecht*, 535 U.S. at 807 ("§ 406(b) calls for


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<sup>1</sup> Under Federal Rule of Civil Procedure 25(d), after the removal of Andrew M. Saul from his office as Commissioner of the SSA on July 9, 2021, Kilolo Kijakazi automatically became the Defendant in this case when she was named as the Acting Commissioner of the SSA.

court review of contingency fee arrangements as an independent check, to assure that they yield reasonable results in particular cases."). The Court therefore **awards** \$20,844.25 in attorney fees to Plaintiff's counsel and, as the motion requests, **orders** Plaintiff's counsel, upon the receipt of those fees, to refund the prior EAJA award of \$6,063.25 to Plaintiff. See *dk. 24* at 4–5; *O'Donnell v. Saul*, 983 F.3d 950, 953 (7th Cir. 2020) ("§ 406 fees are paid directly to the claimant's attorney out of the claimant's past-due benefits . . . ."); *id.* ("[W]here the claimant's attorney receives fees for the same work under both § 406(b)(1) and the EAJA, the claimant's attorney [must] refund[] to the claimant the amount of the smaller fee.").

**SO ORDERED.**

Date: 7/13/2021

  
James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

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